

MONTANA LEGISLATIVE HISTORY

Chapter 177 19 33

Bill H        S 22

Original bill & history ✓ C

H. Committee on Human Services

Hearing Date(s) Mar 02 ✓ C

              C

              C

              C

Date Out Mar 02 ✓ C

S. Committee on Public Health Welfare & Safety

Hearing Date(s) Jan 14 ✓ C

Jan 12 ✓ C

              C

              C

Jan 19 ✓ C

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Did this bill originate in an interim committee?        Yes        No

Committee       

Report

SENATE BILL NO. 22

INTRODUCED BY JACOBSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING USE OF A SAFETY RESTRAINT SYSTEM TO TRANSPORT A CHILD LESS THAN 4 YEARS OLD; ESTABLISHING STANDARDS, EXEMPTIONS, AND PENALTY; PROVIDING FOR ADMISSIBILITY OF EVIDENCE IN CIVIL SUITS WITHOUT PRESUMPTION OF NEGLIGENCE; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. "Properly restrained" defined. As used in this part, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint, but does not mean a system in which the only body restraint is a safety belt of the type specified in 61-9-410.

Section 2. Child safety restraint systems -- standards -- exemptions. (1) No resident of Montana who is the parent or legal guardian of a child under the age of 2 may transport the child in a motor vehicle owned by the resident unless the child is properly restrained.

(2) No resident of Montana who is the parent or legal guardian of a child between 2 and 4 years old may transport the child in a motor vehicle owned by the resident unless

the child is properly restrained or is restrained in a safety belt of the type specified in 61-9-410.

(3) The division shall by rule establish standards in compliance with [this act] and applicable federal standards for approved types of child safety restraint systems purchased after [the effective date of this act].

(4) No resident is required to have more than three child safety restraint systems in a vehicle.

(5) The division may by rule exempt from the requirements of subsection (1) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system or safety belt.

Section 3. Certain vehicles excepted. [Section 2] is not applicable to a vehicle that:

(1) is a motorbus, schoolbus, taxicab, moped, or motorcycle or is not required to be equipped with safety belts under 49 CFR 571 as it reads on January 1, 1984; or

(2) has a seating capacity as designated by the manufacturer of two persons and there are two persons 4 years of age or older in the vehicle.

Section 4. Evidence admissible without presumption of negligence. Evidence of compliance or failure to comply with [section 2] is admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, but failure to comply with

INTRODUCED BILL

1 [section 2] does not alone constitute negligence.

2 Section 5. Penalty. Violation of [section 2] is  
3 punishable as provided in 61-9-511, but no penalty may be  
4 assessed if the owner of the vehicle failing to meet the  
5 requirement of [section 2] proves that within 30 days after  
6 the traffic citation was issued a child safety restraint  
7 system meeting the requirements of [section 2] was purchased  
8 or leased and properly installed in the vehicle.

9 Section 6. Codification Instruction. Sections 1  
10 through 5 are intended to be codified as an integral part of  
11 Title 61, chapter 9, and the provisions of Title 61, chapter  
12 9, apply to sections 1 through 5.

13 Section 7. Effective date. This act is effective on  
14 January 1, 1984.

-End-

## STATE OF MONTANA

REQUEST NO. 006-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 22 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

A proposal to require use of child safety restraint systems when transporting a child less than 4 years of age.

ASSUMPTIONS:

- 1) Costs related to Sec. 2 (3)(5) can be absorbed without additional funds by the Motor Vehicle Division.
- 2) Costs related to educating the public of the law can be absorbed without additional funds by the Highway Traffic Safety Division.
- 3) Costs related to enforcement can be absorbed without additional funds by state and local law enforcement agencies, including city courts and J.P. courts.
- 4) Fine revenue will be minimal due to the wording of Section 5, and no accurate method of estimation is available.
- 5) A definite public impact would exist relating to parents of children between birth and 2 years of age that would not be reflected in state or local government budgets. It is assumed that about 60% of the parents would have to purchase, rent or borrow a child restraint with children in this age group.
- 6) Assuming 28,000 children less than 2 years of age on January 1, 1984, 40% current usage and a \$40.00 average cost per child restraint, public cost would be approximately \$670,000 the first year, and would not exceed \$560,000 for future cost per year as a maximum.
- 7) However, a definite public advantage would be gained in that the lives saved and injuries reduced would yield a public benefit approximately \$644,000 annually. A 90% success rate in saving lives with a 60% success rate in reducing injuries is estimated.

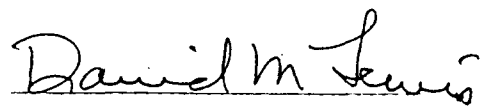
COMMENTS:

Governmental fiscal impact cannot be accurately estimated but is assumed to be small. General public costs and benefits are noted in assumptions 6 and 7.

TECHNICAL NOTES:

Line 21, Page 1 should probably have the words "or their spouse" added after the words "owned by the resident."

FISCAL 1:N



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: Jan 5, 1983

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 22

3 Senate Public Health, Welfare and Safety Committee

4

5 A statement of legislative intent is required for this  
6 bill because the bill authorizes the Division of Motor  
7 Vehicles of the Department of Justice, consistent with  
8 61-9-504, to adopt rules prescribing standards for child  
9 safety restraint systems to be approved for installation in  
10 vehicles owned by residents of Montana. The intention is  
11 that the standards adopted incorporate federal standards  
12 that specify requirements for child restraint systems and  
13 seatbelts used in motor vehicles and prescribe proper  
14 procedures for restraining a child under 4 years old with  
15 acknowledgment of certain exemptions allowed in [SB 22]. The  
16 rules should also provide for informational activity to  
17 bring the new rules to the awareness of the public.

PLEASE ATTACH TO SECOND READING  
COPY OF SENATE BILL 22

-- HALLIGAN -- TO AUTHORIZE LOCAL GOVERNMENTS TO LEVY NOT MORE THAN 1 MILL OF  
RTY TAXES TO PROVIDE TRANSPORTATION SERVICES TO HANDICAPPED PERSONS; AND  
DING AN EFFECTIVE DATE.

PRODUCED: 1/3/83

REFERRED TO COMMITTEE ON TAXATION: 1/3/83

HEARING: 1/12/83

MOTION, PASS CONSIDERATION 2/1/83

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/01/83

HEARING: 2/8/83

MOTION, 2/22/83, THAT THE BILL BE TAKEN FROM THE COMMITTEE ON LOCAL GOVERNMENT  
AND BE PRINTED AND PLACED ON 2ND READING. MOTION PASSED BY THE FOLLOWING  
VOTE: AYES: 33; NAYS: 13.

2ND READING: 02/28/83 AYES: 44; NAYS: 2

3RD READING: 03/02/83 AYES: 43; NAYS: 7

TRANSMITTED TO HOUSE: 3/2/83

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 03/03/83

HEARING: 3/17/83

REPORT: 03/23/83, BE CONCURRED IN, AS AMENDED

2ND READING: 03/28/83, BE CONCURRED IN, AS AMENDED AYES: 63; NAYS: 29

3RD READING: 03/28/83, BE CONCURRED IN AYES: 66; NAYS: 28

RETURNED TO SENATE WITH AMENDMENTS: 3/29/83

2ND READING: 03/31/83 AYES: 36; NAYS: 7

3RD READING: 04/01/83 AYES: 43; NAYS: 2

TRANSMITTED TO GOVERNOR: 04/08/83

SIGNED: 04/12/83, CHAPTER 440

-- JACOBSON -- REQUIRING USE OF A SAFETY RESTRAINT SYSTEM TO TRANSPORT A CHILD  
S THAN 4 YEARS OLD; ... AND PROVIDING AN EFFECTIVE DATE.

INTRODUCED: 1/3/83

REFERRED TO COMMITTEE ON JUDICIARY: 1/3/83

REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 01/04/83

HEARING: 1/14/83

REPORT: 01/20/83, DO PASS, AS AMENDED

2ND READING: 01/24/83 AYES: 31; NAYS: 18

3RD READING: 01/26/83 AYES: 33; NAYS: 17

TRANSMITTED TO HOUSE: 1/26/83

REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/27/83

HEARING: 3/7/83

REPORT: 03/07/83, BE CONCURRED IN

2ND READING: 03/09/83, BE CONCURRED IN AYES: 83; NAYS: 13

3RD READING: 03/10/83, BE CONCURRED IN AYES: 83; NAYS: 14

RETURNED TO SENATE: 3/11/83

TRANSMITTED TO GOVERNOR: 03/18/83

SIGNED: 3/22/83, CHAPTER 177

23 -- HAGER -- PROVIDING FOR THE STREAMLINING OF HEARINGS AFTER THE ISSUANCE OF  
RELIMINARY DECREE IN THE GENERAL ADJUDICATION OF WATER RIGHTS ....

INTRODUCED: 1/3/83

MINUTES OF THE MEETING  
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE  
MONTANA STATE SENATE

JANUARY 14, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Friday, January 14, 1983 at 1:00 in Room 410 of the State Capitol Building.

Roll Call: All members were present. Woody Wright, staff attorney, was also present.

Many visitors were in attendance. (See attachments.)

CONSIDERATION OF SENATE BILL 22: Senator Judy Jacobson of Senate District 42, sponsor of SB 22, gave a brief resume of the bill. This bill is an act requiring use of a safety restraint system to transport a child less than 4 years old; establishing standards, exemptions, and penalty; providing for admissibility of evidence in civil suits without presumption of negligence; and providing an effective date.

Senator Jacobson offered a set of amendments which she felt would improve the bill and make it more workable. (Exhibit 1) She then handed out a copy of a newspaper clipping from this mornings paper telling that the Montana Supreme Court has given children the right to sue their parents. (Exhibit 2)

Dr. Jeffrey Strickler, a Helena pediatrician and representing the Montana Chapter of American Academy of Pediatrics, stood in support of the bill. He stated that the pediatricians have over the last several years, developed a national and personal focus on the number one killer of children, automobile accidents. In the last ten years nearly 10,000 children under the age of 5 have been killed in automobile accidents in this country. A child riding in safety restraint system is 14 times less likely to die or be injured in an accident. Some articles stated that the presentage could be as high as 90 percent sucess rate. Dr. Strickler presented written testimony to the Committee. (See exhibit 3) He also turned in a letter he had received from a former resident telling of her personal experience with her child using a child restraint system. See Exhibit 4) He urged the Committee to stamp a Do Pass on this bill.

Dr. Jerrold M, Eichner of Great Falls Stood in support of the bill. Dr. Eichner handed in written testimony to the Committee

PUBLIC HEALTH  
PAGE TWO  
JANUARY 18, 1983

and also a sheet of statistics for the Committee to review. (See exhibits 5 and 6). Studies show that the majority of fatal accidents involving young children occur during the daytime and the majority of the drivers were the child's mother, who was almost never wearing restraint of some kind herself. They were usually not alcohol related, occurred on dry road within a few miles of home. Mandatory child restraint laws elsewhere have resulted in significant increase of use of those child restraints and a decrease in child passenger fatalities. Tennessee was the first state to pass a child restraint law. 50,000 children between 0 and 4 require emergency room visits each year because of car accidents. Each year accident death cost society \$135,000. Each year deaths of children under age 5 costs \$100,000,000 in the United States. Infants are at the highest risk with an occupant death rate of 9.1 per 100,000 population. Studies show that child restraints could reduce the death rate by 93% and serious injury rate by 70-80%, if everyone used them.

Larry Tobiason representing the Montana Automobile Association, stood in support of the bill. He handed out written testimony to the Committee. (See exhibit 7). Mr. Tobiason stated that the best way to protect a child under the age of 5 years of age during sudden braking, swerving or a crash is to use a child restraint device. Twenty one states now have a child restraint law on the books. Statistics from those states are impressive. He strongly urged the Committee to pass SB 22 for the safety of all infants in our state.

Cornel Landon, Chief Administrator of the Highway Patrol, asked the Committee for a Do Pass on the bill.

Albert Goke of the Highway Traffic Safety Division, stood in support of the bill and also in support of the offered amendments.

Glen Drake, representing the American Insurance Association, stood in support of the the bill. However, he did offer an amendment on page 1, line 24 insert, weighing less than 40 lbs.

Duane Tooley, chief of the Driver's Service of the Department of Justice, asked the Committee for a Do Pass on this bill.



Celinda Lake, Women's Lobbyists Fund, stood in support of the bill. She stated that education programs in Montana have already demonstrated the success in reducing infant mortality and injury when child restraints are used. She handed in written testimony to the Committee. (See exhibit 8) While parents have a responsibility to protect their children, the state also has a responsibility to see that children who are too young to ensure their own safety by using seat belts are protected, if parents do not follow through on their responsibility.

Judy Olson, representing the Montana Nurses Association, stood in support of the bill and the preceeding testimony.

Karla Hood, representing the Family Outreach Program, stood in support of the bill. She stated that she works daily with handicapped children, many of which are the result of an automobile accident where a child was not wearing a safety restraint. She urged the Committee to put a Do Pass on this bill and get it on its way.

Leona Tolsted, co-chairman of Buckle Up Your Babe Program and First Vice-president of the Montana Medical Association Auxiliary, stood in support of the bill. She handed out written testimony to the Committee. Mrs. Tolsted spoke about the infant restraint loan programs in the state and more particularly about the loan program in Helena. (See exhibit 9) There are loan programs operating in 16 cities all over Montana.

Mrs. Tolsted presented a letter from her husband, a doctor, for the Committee to review. (See exhibit 10)

Margaret Johnson, representing herself as a mother, spoke on behalf of the bill. She told of an experience she, her husband and their two small infants had recently in the Livingston area. They were sideswiped by a large truck which cause their car to overturn. Everyone in the car was wearing some type of restraint; no one was seriously injured. She felt that the reason they were not injured was because of the restraints. She urged the Committee to place a Do Pass on the bill for the safety for everyone.

PUBLIC HEALTH  
PAGE FOUR  
JANUARY 14, 1983

Debra Kehr stood in support of the bill. She handed in a letter to the Committee which was sent to her by Dr. Dennis McCarthy of the Butte Pediatric Clinic. (See exhibit 11)

A letter was presented from Alice L. Agnub, President of the Montana Medical Auxilliary Association in support of SB 22. (See exhibit 12.)

A phone call was received from Charlene Lodge of Dillon stating her support of the bill. (Exhibit 13)

With no further proponents, Chairman Hager called on the opponents, hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hims1 asked asked Senator Jacobson if pickup trucks were exempt from this bill. She replied that she did not feel that pickup trucks would be exempt, however, she would check into this.

Senator Marbut asked about the enforcement of the bill.

After much discussion Senator Jacobson closed by explaining the offered amendments to the Committee and urged the Committee to quickly pass this bill in the interest of everyone.

CONSIDERATION OF SENATE BILL 12: Senator Judy Jacobson of Senate District 42, sponsor of Senate Bill 12, gave a brief resume of the bill. This bill is an act allowing physicians to report to the Division of Motor Vehicles patients with coniditions that impair their ability to safely operate a motor vehicle; and providing limited immunity for such physicians.

Senator Jacobson offered a set of amendments which she felt would make the bill more workable.

Ben Havdahl, representing the Montana Motor Carriers Association, stood in support of the bill. He stated that he felt that this is an excellent bill and would help Montana statistics regarding the largenumber of accidents. He urged the Committee to place a Do Pass on this bill.

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date/- 14-85

[illegible]

## VISITORS' REGISTER

| NAME                 | REPRESENTING                           | BILL #         | Check One |        |
|----------------------|----------------------------------------|----------------|-----------|--------|
|                      |                                        |                | Support   | Oppose |
| Plane Tolly          | Div of Motor Veh.                      | SB 12<br>SB 22 | ✓         |        |
| Dr Jeff Strickler    | Am. Academy of Pediatrics              | SB 22          | ✓         |        |
| Albert Lake          | High Safety - Justice                  | SB 22          | ✓         |        |
| Leah Hapton          |                                        |                |           |        |
| Paul Johnson         |                                        | SB 12<br>SB 08 | ✓         |        |
| Robert McLe          | Sec of State                           | 67             |           |        |
| Celinda Leche        | Women's Lobbyist Fund                  | SB 22          | ✓         |        |
| L. Tobiasson         | Mont. Auto Assoc.                      | SB 12<br>" 22  | ✓         |        |
| B. Hardin            | Mont Mtr Carriers Assn                 | SB 12          | ✓         |        |
| Quay Olson           | MT. Nurses Assoc.                      | SB 22          | ✓         |        |
| Dane Bucke           |                                        | SB 22          | ✓         |        |
| Sherrice Smith       | Family Outreach/Buckle Up Bn           | SB 22          | ✓         |        |
| Karla Hood           | Family Outreach                        | SB 22          | ✓         |        |
| Yvonne Yousey        | City/County Health Dept                | SB 25          | ✓         |        |
| Pattie Bergwall      |                                        | SB 25          | ✓         |        |
| Col. R.W. Landon     | Highway Patrol                         | SB 22          | ✓         |        |
| Kathleen E. Markert  |                                        |                |           |        |
| Janice Bacins        | (Mother) self                          | SB 22          | ✓         |        |
| Debra Hall           | (Mother) self                          | SB 22          | ✓         |        |
| Martin Studer        | intern at Gov. Off.                    | 12/22          |           |        |
| Debra Kehr           | Mother/Johnston                        | SB 22          | ✓         |        |
| Marjorie Johnson     | mother                                 | SB 22          | ✓         |        |
| Gen T. Sletten       | Buckle Up Your Bike                    | MMAA           | SB 22     |        |
| Terrold Eichner M.D. | MT. Chapter, Am. Academy of Pediatrics | SB 22          | ✓         |        |
| Linda Sletten        | MMAA intern                            | SB 12/22       |           |        |
| one Loendorf         | MMAA                                   | SB 12/22       | ✓         |        |

(Please leave prepared statement with Secretary)

## SENATE BILL 22

This bill prohibits Montana resident parents and legal guardians of children under 2 years old from transporting those children in the parents or guardians own car unless a child is properly restrained. Proper restraint contemplates manufactured commercial restraint systems that are used in accord with the manufacturers instructions. Safety belts are not sufficient restraint.

For children between the ages of 2 and 4 the same persons must use a proper safety belt.

The covered persons are not required to have more than 3 restraint systems in a vehicle. Motorhouses, school buses taxicabs, mopeds, motorcycles and other vehicles not required by federal rule to have seat belts are exempt, as are vehicles designated as two person vehicles and the occupants are over 4 years of age. Further exemptions for children with certain physical or mental conditions or body size may be made by the Division of Motor Vehicles.

The Division must make rules for approved child restraint systems purchased after the effective date of the act.

Evidence of compliance with this act or failure to comply is admissible in personal injury or property damage legal actions; however, failure to comply is not a sufficient criteria to constitute negligence.

The penalty for violation is a misdemeanor that will not apply if the vehicle owner complies with the act within 30 days of the traffic violation.

The bill would be effective January 1, 1984.

STATEMENT OF INTENT  
SENATE BILL 22

A statement of legislative intent is required for this bill because the bill authorizes the Division of Motor Vehicles of the Department of Justice, consistent with 61-9-504, to adopt rules prescribing standards for child safety restraint systems to be approved for installation in vehicles owned by residents of Montana. The intention is that the standards adopted incorporate federal standards that specify requirements for child restraint systems and seatbelts used in motor vehicles and prescribe proper procedures for retraining a child under 4 years old with acknowledgment of certain exemptions allowed in [SB 22]. The rules should also provide for informational activity to bring the new rules to the awareness of the public.

AMENDMENTS FOR SENATE BILL 22

1. Page 1, line 22.

Preceding: "unless"

Insert: "or his spouse"

2. Page 1, line 25.

Following: "resident"

Insert: "or his spouse"

3. Page 2, line 7

Following: "resident"

Insert: "or his spouse"

4. Page 3, line 3.

Following: "punishable"

Strike: "as provided in 61-9-511"

Insert: "by a fine of not less than \$10 or more than  
\$25, a second or subsequent conviction within three  
years is punishable by a fine of not less than \$25  
or more than \$100,"

## Montana

# Court gives minor children limited right to sue parents

HELENA (AP) — The Montana Supreme Court ruled Thursday that under-age children injured in auto accidents have a right to sue their parents over negligent operation of a motor vehicle.

The ruling broke new ground in parent-child relations, its potentially far-reaching effects led the court to set specific limits on the scope of its ruling for now. While much of what the court said in the unanimous decision appeared to give children full rights to sue their parents alleging wrong-doing, the court was careful to say it had no intention at this time to permit the possible eroding of parental authority.

Our holding is limited to actions brought against a parent by a child under the age of emancipation injured in the operation of a motor vehicle. To allow such an action does not undermine parental authority and discipline, nor does it threaten to substitute judicial discretion for parental discretion in the care and control of minor children," the court said.

THE RULING CAME IN THE case of Mary Kay Haines, the now-quadruplegic daughter of a former

Polson minister and his wife, the Rev. and Mrs. Byron Haines. The family has since moved to Glendale, Ariz., according to their attorney, state Sen. Jean Turnage, R-Polson.

The child lost the use of both arms and legs in a Nov. 14, 1980, auto accident. She was the passenger in a vehicle driven by her mother. The car was insured by Transamerica Insurance Co., but the father's policy included a clause excluding coverage for bodily injury to any person related to and living with the policyholder at the time of the loss.

William Royle was appointed conservator for the injured child and he filed a "friendly" suit in state court against the parents, alleging negligence, in order to recover damages for the child. The parents demanded that Transamerica assume their defense and provide coverage. Transamerica refused and went to federal court claiming it had no obligation under the insurance contract. The parents then went to state court to get a declaration that the "household exclusion clause" was invalid. That suit was consolidated with Transamerica's case in federal court, but the federal judge

sent the whole matter to the Montana Supreme Court for a determination in light of Montana law.

The Supreme Court ruled that the household exclusion clause was illegal under Montana's 1979 mandatory liability insurance law which requires policies to protect "any person" injured or damaged by actions of the policyholder.

BUT SINCE THE MANDATORY insurance statute requires protection against only those losses resulting from "liability imposed by law," the Supreme Court first had to determine whether parents have any legal liability when sued by their minor children.

The Supreme Court said that the American version of the doctrine of parental immunity appeared to be born in an 1891 Mississippi court ruling based on no previous authority. Nevertheless, the court said, the doctrine gained widespread acceptance in years to come, until courts and scholars began to question the simple justice of the doctrine when applied to many factual situations.

The court said that the public-policy reasons for the parental immunity doctrine have tended to evaporate

under insurance coverage.

"The existence of liability insurance prevents discord and depletion of family assets in negligence cases; contrary to the original intent," wrote Justice John Conway Harrison, whose son is presumed dead following the recent crash of a light airplane in which he was riding.

Harrison said the most persuasive argument of parental immunity is that unscrupulous families on fraud and collusion, may attempt to unjustified awards from insurance companies.

Justice Daniel Shea, in a separate concurring opinion, said the court should not have left open the possibility of keeping the parental immunity doctrine in application to other circumstances.

"If it is to be recognized (in any fashion) question for the Legislature, not for the court," he said. "We are ill-equipped to undertake that task."

The Supreme Court's interpretation of Montana law will now be applied by the federal court in determining the extent of the parents' — and, more pointedly, America's — liability to pay for the child's injuries.



# Helena Medical Clinic, P.S.C.

1930 9TH AVE.  
HELENA, MONTANA 59601  
TELEPHONE 442-9523

January 11, 1983

DAN SMELKO  
Business Manager

INTERNAL MEDICINE:  
J.B. SPAULDING, M.D.  
D.R. HIESTERMAN, M.D.

OBSTETRICS AND  
GYNECOLOGY:  
J.E. NICKEL, M.D.  
R.M. BROWNING, M.D.

PEDIATRICS:  
E.P. GUNDERSEN, M.D.  
B.C. RICHARDS, M.D.  
J.H. STRICKLER, M.D.

SURGERY:  
W.J. HOOPES, M.D.  
K.J. WRIGHT, M.D.  
J.W. HARLAN, M.D.

Mr. Chairman and Members of the Committee:

I come to speak in favor of Senate Bill 22. I am Dr. Jeffrey Strickler, I practice pediatrics here in Helena, Montana and I am representing the Montana Chapter of the American Academy of Pediatrics.

Pediatricians have, for years, been involved in preventive health. We encourage good nutrition; we encourage immunizations to prevent disease; we stress hygiene and the early diagnosis of ~~early~~ medical problems through a regular series of well child exams. We as pediatricians have, over the last several years, developed a national and personal focus on the number one killer of children, automobile accidents. In the last decade nearly 10,000 children under age 5 were killed in automobile accidents in this country. This is far more than died of leukemia, 20 times more than died in this age group from Reye's Syndrome, (which you have heard so much about lately), more than any disease out of the newborn period that we treat. It is a curious fact that parents will diligently feed the child the recommended formulas and baby foods to assure adequate health and growth, give vitamins to build resistance and sterilize bottles to prevent disease; they will faithfully bring the child to the doctor to prevent diphtheria, tetanus, whooping cough and to make sure that their child does not have a host of diagnoseable diseases; yet they unconcernedly fail to protect their infant or young child from the leading cause of death by ~~the use of~~ a car seat.  
*failing to use*

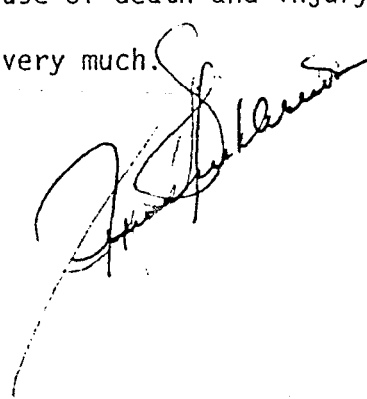
Injuries to children in automobiles can actually be caused by the child by distracting the parent's attention from the road. The injuries that a child receives in an accident are the result of being thrown from the car, being thrown into the windshield or dashboard or by being crushed by the adult's body against the windshield or dashboard. In addition, many children are killed or injured by falling out of automobiles in non-crash situations. The use of a seat belt or proper child safety restraint avoids all of these problems. It has been stated in the literature that a child riding in a safety restraint is 14 times less likely to die or be injured in an accident. Other articles will tout a 90 percent success rate. These figures generally come from derivative theoretical or crash analysis studies. In November, however, we were presented with irrefutable data of the value of child safety restraints. Tennessee passed the first child restraint law in 1978 and in that state the use of child restraints increased 3 fold from 9 percent to 32 percent in 1981. Over that 3 year period, the injury rate among Tennessee children dropped from 440 injuries per 100,000 children in 1979 to 306 per 100,000 in 1981 (a 30 percent drop). Deaths were reduced more than

half from 7.72 to 3.5 per 100,000. These are tremendous results from a medical point of view, and I only wonder how much greater the success would be if the use of child restraints were at 90 percent rather than 30 percent.

Finally, I would like to warn you against two things. The first is an exclusion of children for "physical or medical reasons". There has been concern expressed that the use of a child restraint will worsen an existing medical problem, such as a wound or fracture in the event of a collision. This is a misplaced concern since statistics clearly show that the risk of injury or death is far greater when the child is unrestrained. Secondly, I would like to warn you against the "child crushing" exclusion. Legislators in other states have, in the past, suggested that it is acceptable to allow the child to ride on a parent's lap. I would like to dissuade in the strongest possible terms from allowing this, since the parental lap is the most deadly place to ride. The inertial force generated by a one year old infant at a 20 mile an hour crash has been likened to attempting to hold onto a falling refrigerator. The children are invariably thrown from the parental lap against the windshield or dash and then further crushed against it by the weight of the parent's body.

In conclusion, the Montana Chapter of the American Academy of Pediatrics would like to commend Senator Jacobson for introducing this bill. It is an excellent piece of legislation that will go far in preventing the leading cause of death and injury to children in Montana.

Thank you very much.



Jan 7, 1983

San Diego, Calif.

Dear Dr. Strickler,

On Sunday, December 19, 1982, I was driving into Helena from Clancy with my 3 year old daughter. The interstate highway was covered by a sheet of ice so I was being extremely careful. At the Helena exit I slowed even more to 15 or 20 miles per hour. Despite my slow speed, we skidded on the unsanded cloverleaf and rolled once, landing on the 4 wheels. Both my daughter and I were properly restrained: I was in a seat belt with shoulder harness, and she was in a car seat.

It is obvious that our restraints prevented us, especially my daughter, from further injury. My daughter weighs thirty-two pounds and could have been thrown around in the car just because of her size.

I am grateful that you are helping to pass Senate Bill 22, Dr. Strickler.

I see unrestrained children in automobiles frequently & am currently visiting California where this law has already been enacted. Good luck in your efforts and let me know if I can be of further assistance.

Sincerely,

Lynn James

Mandatory child restraint laws elsewhere have resulted in significant increase of use of those child restraints and a decrease in child passenger fatalities. This has been demonstrated in a follow up of the Tennessee child restraint law after three years. That was the first state to have a child restraint law in 1978. It subsequently has been amended to make up for its deficiencies that included allowing infants to be carried by their parents in a car; that is no longer permissible under the Tennessee law. The use of child restraint devices in Tennessee has more than tripled in follow-up studies since the law has been in effect. In a small amount of time, just a one-year study, the Rhode Island child restraint law has more than doubled the use of proper restraint devices.

Because of the lack of other methods in protecting children in automobile accidents, this state must have an interest in doing this just as other public health issues become law. When a child is injured in an automobile accident, it is the public's responsibility to rescue the child, to transport him to the hospital, and to provide expensive medical and rehabilitative services. Often there are permanent damages from those injuries, and the individual may need to be supported for life by the State. These costs are extremely high, and if the State is going to be paying for them it should have the right and the responsibility of trying to reduce the number of injuries that occur. One way of doing that is to use the mandatory child safety restraint laws.

Even the new Federal standards for passive restraints in automobiles are not good enough for the protection of small children. They are designed for the protection of adults and not for small children, who will not fit under automatic shoulder belts and who may end up underneath an air bag or thrown out of the automobile entirely if not properly restrained.

There were 39,500 children involved in the accidents, and of these 6,300 or 16% were wearing some kind of safety restraint. Only two of those children wearing safety restraints were killed, with a death rate of 1 per 3,350. Of those not wearing safety restraints 146 were killed, or a death rate of 1 per 227. This means if these numbers are extrapolated, you can conclude that if all children were wearing restraints there would have been 93% fewer deaths in the State of Washington in that ten-year period. This does not say that those children were properly restrained in that safety restraint or whether the restraints were properly used. Of those two deaths, at least one of them was in a lap belt, and that fatality might have been prevented if that 2-year-old had been in a proper child restraint device. Other studies have shown that serious injuries can be reduced 70-80% by using child restraints.

Furthermore, this study as well as others shows that the majority of fatal accidents involving young children occur during the daytime. The majority of drivers were the child's mother, who was almost never wearing a restraint of some kind herself. They were usually not alcohol related, and usually occurred on dry roads in good weather, during the daytime, and within a few miles of home, and there were no defects in the cars that contributed to the accident. This is clearly different from statistics in most fatal accidents which are heavily alcohol related and occur more often at night and the other risk factors such as weather, car defects, road conditions may be contributory.

Efforts have been made through public education and education by pediatricians and other health professionals to convince parents to adequately protect their children in cars. A couple of studies have demonstrated a very small improvement with these efforts, but there was no significant dent made in the lack of child restraint use.

The dollar savings from death and injury to the State as well as the individual are estimated to be huge. Even if all children were to get a new child restraint device in the State of Montana, the cost would only be \$640,000 per year. Of course these seats can be used for more than one child and sometimes can be sold or rented and used for many children in their useful lifetime. Compare this number with the estimated \$135,000 cost of a single death, \$11,900 for one single incapacitating injury, and \$3,500 for one single non-incapacitating visible injury. The hidden costs of the incapacitating injuries which may include a lifetime of care or prolonged rehabilitation are not easily estimated.

There are other benefits besides protection of a child in automobile accidents. Studies have shown that children who are properly restrained are better behaved in the car, and travel is easier for the family. In addition, children who are loose in a car are distracting and in themselves a cause of accidents if they distract the driver of the vehicle in one way or another. It has been shown that children who are properly restrained produce a decrease in the number of accidents involving their vehicles.

It is for these reasons that it is important that the State of Montana have a child safety restraint law. After all, children have been called our most important natural resource, and that resource needs to be protected.

*Exhibit 6*

## CAR SEAT LEGISLATION FOR MONTANA

January 14, 1983

Jerrold M. Eichner, M.D.

Motor vehicle accidents are the number one killer of American children between 1 and 14 years of age.

1,500 children between 0 and 4 are killed each year  
50,000 children between 0 and 4 require an emergency room visit  
each year because of a car accident

Each accident death costs society \$135,000  
Incapacitating injuries \$11,900  
Non-incapacitating visible injuries \$3,500  
Nonvisible claimed injuries \$880

Each year deaths of children under age 5 cost \$100,000,000 in the United States.

Infants are at the highest risk with an occupant death rate of 9.1 per 100,000 population.

The vast majority of children ride unprotected.

Studies show child restraint devices could reduce the death rate by 93% and serious injury rate by 70-80% if everyone used them.

Laws in other states have already shown a significant improvement in the use of restraint devices and a decrease in death rates.

The state has the right and the responsibility to try to reduce the risk of death and injury in automobile accidents. After all, society almost always bears the cost of those deaths and disabilities, and they are expensive. The State of Montana should have a child safety restraint law to help protect our children.

The vast majority of young children ride unprotected and are vulnerable to serious injuries. This has been documented in numerous studies in different parts of the country. Anywhere from 7 to 20% of children were properly restrained under the age of 5 in observational studies.

Child restraint devices have been estimated to be able to greatly reduce child passenger death rates as well as the rate of serious injuries in automotive accidents as well as in non-crash events. Children who are not properly restrained become an unguided missile that is either thrown from the automobile or crashes into the interior of the vehicle; even with padded approved interiors, small children frequently hit parts that are lower and in the front seat that are not designed to absorb any impact of an accident. Children who are carried on the lap of an adult, even if the adult is restrained, also go flying. It is impossible for even a very strong adult to hold on to an infant if there is a collision at even less than 30 MPH. If the adult is not restrained, there is a risk of the infant being crushed between the adult and the car interior.

Some studies have shown that injury rates are different depending on where the child is sitting. There clearly is an advantage to sitting in the back seat. A child who is restrained in the front seat is better off than one unrestrained in the back seat, and best of all is the child who is properly restrained in the back seat.

A study published in 1981 from the State of Washington looked into all accidents in which children less than 4 years of age were in the motor vehicle; the study covered the ten-year period from January 1, 1970, through December 31, 1979. One hundred and forty-eight children were killed in motor vehicle accidents.



*E. J. H. H. H.*

TESTIMONY IN FAVOR OF MANDATORY CAR SEAT LEGISLATION  
FOR THE STATE OF MONTANA

January 14, 1983

Jerrold M. Eichner, M.D.  
Great Falls, Montana

Motor vehicle accidents are a leading cause of death and injury in this country. They are the number one killer of American children between the ages of 1 and 14. In 1978, 51,500 persons were killed in motor vehicle accidents; 4,600 were less than 14 years old, and 1,500 less than four years old; 800 of those were motor vehicle occupants. In the 1970's for the ten-year span there were 16,820 children 0-4 years of age killed in motor vehicle accidents in the United States.

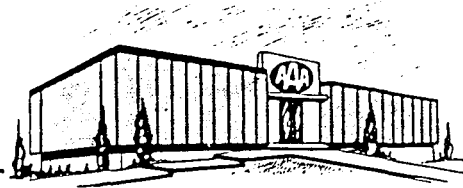
In addition to those killed, more than 150,000 children under 14 years of age sustain disabling injuries each year in motor vehicle accidents in the United States; and 50,000 motor vehicle occupants under five years of age sustain injuries requiring an emergency room visit.

All of this has enormous financial consequences. National Safety Council data shows that each motor vehicle death costs society \$135,000; incapacitating injuries \$11,900; non-incapacitating visible injuries \$3,500; and nonvisible claimed injuries \$880. This adds up to motor vehicle occupant death in children under five years of age costing over \$100,000,000 per year in the United States.

Other data show that proportionally more infants are killed in accidents than older children; children less than six months of age have an occupant death rate of 9.1 per 100,000 population; 1 year olds 7.2; 2 year olds 4.6; 3 year olds 3.8 per 100,000; and the number stays steady until it rises again in the adolescent years.

*copy to file 1*

# Montana Automobile Association



STATE HEADQUARTERS OFFICES: P.O. BOX 4129  
607 N. LAMBORN / HELENA, MONTANA 59601  
PHONE 442-5920

TESTIMONY FOR SB 22 .....

Motor vehicle accidents are the leading cause of death and injury for American children, ranking ahead of all other types of accidents -- and claims more lives than any childhood disease.

During a sudden stop, swerve or crash, all occupants of a motor vehicle need protection from impact with the car's interior. If unrestrained, infants and children are thrown around the vehicle like flying missiles. In a 30-mph crash, a child may be thrown forward with a force equal to 30 times his or her own weight. That's like falling from a three-story building.

Young passengers are also the most helpless. They are dangerously exposed to serious head injury because they have proportionately larger heads. Each year 1,000 children under age five are killed and more than 100,000 are injured as a result of vehicle collisions and sudden stops.

Many adults believe they can protect children by holding them on their lap. In vehicle crashes -- even at low speeds -- the forces generated are such that even strong adults cannot restrain or shield a child held on their lap. The child is thrown forward into the dashboard area and then crushed between the unrestrained adult's body and the dashboard or windshield.

The best way to protect children under five years of age during sudden braking, swerving or a crash is to use a child restraint device.

Keep in mind that children lack the experience necessary to make intelligent decisions regarding the use of safety devices. It's your responsibility

Branch Offices: BILLINGS  
3220 4TH AVE. NORTH (59101)  
PHONE 248-7738

GREAT FALLS  
1812 10TH AVE. SOUTH (59405)  
PHONE 727-2900

MISSOULA  
275 WEST MAIN (59801)  
PHONE 549-5181

KALISPELL  
116 FIRST AVE. WEST (59901)  
PHONE 755-5511

1-11-83 Exhibit 12

A recital of all the damage done to small children involved in automobile accidents would bring tears to your eyes.

Sudden stops launch these unprotected children into the dashboards or windows.

A protective device would limit the extent of this unnecessary injury.

As a mother and president of the Montana Medical Ass. Auxiliary, I urge you to support this concept & project which is equally



Bell System

Exhibit 63  
Call Memo (10-80)

To

Tom Hager

From

Charlene Lodge

Tel. No.

( 683-4344 ) Ext.

☐ URGENT ☐ Will Call Later ☐ Job Ready ☐ Contact

☐ Called ☐ To See You ☐ Repro. ☐ WP Ctr.

☐ Please Call ☐ Was Here ☐ Graphics ☐ Comm. Ctr.

☐ Returned Your Call

Rec'd By

Date

Time

Heelon Dillon

SB 22

- supports this  
bill

*L. F. Thibault 11*

# BUTTE PEDIATRICS, INC.

DISEASES OF CHILDREN AND ADOLESCENTS

401 South Alabama

BUTTE, MONTANA 59701

DENNIS J. MCCARTHY, M.D.

LINDA A. ROGERS, M.D.

Phone 406-723-4337

The following is offered in support of Bill  
No.

Motor vehicle accidents are the leading cause of accidental death of young children in the United States. In the 1970's, 16,820 children 0 to 4 years of age were killed in motor vehicle related accidents.

Enclosed in a graphical display of the Washington State Seat Belt Study compiled during the past decade for children aged 0 to 4 years. Sixteen per cent (6,300) of children involved in accidents in this study were in a restraint as opposed to eighty-four per cent (33,200) who were not. Two restrained infants died for a fatality ratio of 1:3,150. This is contrasted by 146 deaths in the unrestrained children or a fatality ratio of 1:227.

The Montana experience according to the highway patrol has only been compiled for the year 1982. The results are not complete, but it is estimated at least five deaths have been prevented by restraints.

These figures obviously ignore the untolled maimed and permanently disabled.

Opponents to this bill may feel this legislation is an encroachment on civil liberties. Unfortunately these victims become societies. children. Analogous are the motorcycle helmet laws which in the Massachusetts Motorcycle Helmet Law in 1972 in the case of Simon vs. Sargent, where the United State Supreme Court answered the argument of the plaintiff "the police power does not extend to overcoming the right of an individual to incor\* risk that involve only himself." That decision clearly delineated the public resources involved in motorcycle accidents:

"....From the moment of injury, society picks the person up off the highway, delivers him to a municipal hospital and municipal doctors: .... and if the injury causes permanent disability, may assume the responsibility for his.... subsistence. We do not understand a state of mind that permits plaintiff to think that only he himself is concerned."

Other costs to society may result from increased auto insurance rates and increased medical insurance.

In summary, I close with the caveat, infant restraints make sense.

## VERN G. TOLSTEDT, M.D. F.A.C.S.

EBC Professional Center  
2225 Eleventh Avenue  
Helena, Montana 59601  
Tel. (406) 442-3550

*SB-22*

Physicians are vitally interested in preventive medicine. Not only is prevention of disease a part of preventive medicine but also prevention of accidents. The automobile is a very large source of injury and death through accidents. I do not have to repeat the statistics about auto accidents nor do I have to repeat statistics relative to the use of seat belts and child restraint devices.

I believe there has been adequate publicity about the importance of the use of seat belts and child restraint devices. It appears then that this rather simple preventive medical measure is not used only because of public apathy. Unlike the adult driver an infant is unable to make a choice about use of safety measures. Perhaps a penalty for not providing infants with these safety devices will reduce the apathy among adult drivers.

Injury to a child or infant in an automobile accident where restraint devices are not used is a form of child abuse. We have good laws governing child abuse. Failure to use restraint devices must also be included.

The cost of these restraint devices is less than the cost of emergency room care for even the most minor of injuries. The cost of care for a major injury perhaps resulting in a life time of public support is not measurable but almost astronomical. We all know that saving on life cannot be monetarily measured.

I believe SB-22 will reduce child and infant morbidity and mortality. I strongly urge that this bill be passed.

Thank You

*Vern G. Tolstedt*

can see that we are talking about approximatedly \$1.00 per month to keep a child safely restrained.

In the beginning, when this law is passed, I'm sure that we will experience a shortage of used seats that meet the new standards of testing since 1980. We are in that state now because of the awareness created by the loan-rental programs and the attention given them by our advertising media. But as more used seats are on the market, I feel that the cost should be in the reach of any parent who cares deeply about their children.

I urge the passage of Senate Bill 22 for the protection of our greatest resource, our children.

Leona Tolstedt    Co-chairman Buckle Up Your Babe  
First-Vicepresident    Montana Medical Association Auxiliary

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Members of the Public Health Committee, Senators and Representatives:

I won't reiterate all the statistics and the need for SB-

22. The facts speak very well for the need of safety restraints. What I want to speak to is how the infant restraint loan programs can help to mitigate the cost of restraints for the parents. I will speak rather specifically about the program I am familiar with operating at St Peters Community Hospital in Helena. There are similar programs operating in 16 cities all over our state. Each is operated with slight variations. We have an infant restraint loan program in which the parents are able to rent an infant restraint for the first 9 months or until they weigh 20 pounds for \$7.00. At the end of that period we conduct toddler restraint workshops to familiarize the parents with different types of restraints. In this way they can make an educated purchase of a restraint that will meet their needs. Through our participating merchants we have been able to give the parents a discount certificate toward the purchase of a restraint. Even with this inticement our educational program for toddler restraints has met with a poor response. Sad as that commentary may be I feel that parents have to be further encouraged to see that their infants and toddlers are restrained while in an automobile. This law will help to do that.

A proper restraint for a toddler can be purchased for approximately \$40.00 to \$70.00. I have seen nearly all the restraints advertised on sale quite regularly at between \$45.00 and \$50.00. When you consider that a child should be able to use the seat until he or she is nearly five years old, you



TESTIMONY BY CELINDA C. LAKE, WOMEN'S LOBBYIST FUND IN SUPPORT OF SENATE BILL 22  
ON JANUARY 14, 1982

The Women's Lobbyist Fund represents a broad coalition of women's groups across Montana. We support Senate Bill 22 calling for child restraints for children four and under. Education programs in Montana have already demonstrated the success in reducing infant mortality and injury when child restraints are used. Other states's programs such as Michigan's and Tennessee's have shown that mandatory programs can reduce the injury rate by 40% and the death rate of children by 50%. Preliminary analysis in Montana suggests that the voluntary programs have already had an even higher success rate than that.

While parents have a responsibility to protect their children, the state also has a responsibility to see that children who are too young to ensure their own safety by using seatbelts are protected, if parents do not follow through on their responsibility. In Montana with programs like the mandatory immunization program for young school children, we have already set the precedent of state involvement in ensuring that young children are protected when they can not reasonably be expected to take responsibility for their own protection and when their parents may not follow through on their responsibility to protect their children.

For these reasons the Women's Lobbyist Fund strongly urges the committee to pass Senate Bill 22.

to insist on restraint usage. It's also an expression of your concern for the safety of those you love.

~~Eighteen~~<sup>Twenty-one</sup> states now have child restraint laws on the books. Statistics from the state of Tennessee -- the first state to pass child restraint legislation in 1978 -- are impressive. Tennessee experienced a drop of 50% in both fatalities and injuries of children under four during the first year the law was in effect. The second year showed a drop of 75%. In 1978, 92% of children under four in Tennessee rode unrestrained in vehicles. Since the law was enacted, the usage rate of child restraints in Tennessee has increased almost four fold.

I strongly urge this committee to pass SB 22 for the safety of all infants in our state.

Senator Jacobson addressed the amendments which she had presented the day of the hearing.

A motion was made by Senator Norman that the proposed amendments for this bill be accepted. Motion carried. (See exhibit 3 for a copy of the amendments.)

Senator Hager asked if diabetics would be covered in this bill. Senator Jacobson stated that they would be included in the bill along with many other impairments.

Senator Jacobson stated that she felt that this bill would be a ehlp to protect the public.

A motion was made by Senator Jacobson that Senate Bill 12 receive a DO PASS, as amended recommendation from the Committee. Motion carried 4 to 3. (See exhibit 4)

DISPOSITION OF SENATE BILL 22: This bill is an act requiring use of a safety restraint system to transport a child less than 4 years old; establishing standards, exemptions, and penalty; providing for admissibility of evidence in civil suits without presumption of negligence and providing an effective date.

Senator Jacobson spoke briefly about the amendments which the Committee received on Friday at the hearing on Senate Bill 22.

A motion was made by Senator Jacobson that the proposed amendments which the Committee received be adopted. Motion carried.

A motion was made by Senator Marbut that the bill be amended on page 1, line 41 to include weighing less than 40 lbs. Motion carried.

Senator Hims1 again brought up the question concerning the exemption of pickup trucks from the bill. He stated that in his area many many people drive pickups. Senator Jacobson stated that this was not even considered in the drafting of the bill and she would check on the matter.

Senator Jacobson stated that 85% of the people follow the law, however, 15% need to be directed.

A motion was made by Senator Jacobson that Senate Bill 22 receive a DO PASS, as amended recommendation from the Committee. Motion failed on a 3 to 4 vote. (See exhibit 5)

PUBLIC HEALTH  
PAGE TWO  
JANUARY 17, 1983

The overwhelming majority of cases will continue to be determined according to part 1, When artifical means of support preclude a determination under part 1, the Act recognizes that death can be determined by the alternative procedures.

Under part 2, the entire brain must cease to function, irreversibly. The entire brain includes the brain stem as well.

Mr. Loendorf handed a copy of the notes from the NCCUSL.  
See Exhibit 1)

Mickey Nelson, representing the Montana Corner's Association, and also himself as a corner, stood in support of the bill. He stated that Senate Bill 61 would aid the corners of Montana greatly as in the field they are confronted with much different circumstances than those in the hospitals of Montana. This bill meets the needs of both the corners and the hospitals of this state in a more realistic way. Mr. Nelson turned in a copy of the letter which he had written to Senator Norman. (See exhibit 2)

Steve Brown, the Junior members of the National Committee on State Laws, stood in support of the bill. He stated that he is in complete agreement with what everyone else has said.

John Frankino, representing the Montana Catholic Conference, stated that his group has done a review of this bill and does support passage of Senate Bill 61.

With no further proponents, Chairman Hager called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hims1 wondered if perhaps the bill should be amended on page 1, line 14; Following: functions; Strike, or, and Insert: "and".

Senator Norman closed asking the Committee for a Do Pass on the bill and start it on its way.

DISPOSITION OF SENATE BILL 12: This bill is an act allowing physicians to report to the Division of Motor Vehicles, patients with conditions that impair their ability to safely operate a motor vehicle; and providing limited immunity for such physicians.

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date: 1/17/83

[illegible]

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date January 17, 1983 Senate Bill No. 22 Time 2:30

| NAME                      | YES | NO |
|---------------------------|-----|----|
| SENATOR TOM HAGER         |     | ✓  |
| SENATOR REED MARBUT       | ✓   |    |
| SENATOR MATT HIMSL        |     | ✓  |
| SENATOR STAN STEPHENS     |     | ✓  |
| SENATOR CHRIS CHRISTIAENS | ✓   |    |
| SENATOR JUDY JACOBSON     | ✓   |    |
| SENATOR BILL NORMAN       |     | ✓  |
|                           |     |    |
|                           |     |    |
|                           |     |    |
|                           |     |    |
|                           |     |    |
|                           |     |    |

Shirley Grawley  
Secretary

Tom Hager  
Chairman

Motion: A motion was made by Senator Jacobson that Senate Bill  
22 receive a DO PASS as amended recommendation from the Committee  
Motion failed.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date January 17 Senate Bill No. 22 Time 2:35

| NAME                      | YES | NO |
|---------------------------|-----|----|
| SENATOR TOM HAGER         | ✓   |    |
| SENATOR REED MARBUT       |     | ✓  |
| SENATOR MATT HIMSL        | ✓   |    |
| SENATOR STAN STEPHENS     | ✓   |    |
| SENATOR CHRIS CHRISTIAENS |     | ✓  |
| SENATOR JUDY JACOBSON     |     | ✓  |
| SENATOR BILL NORMAN       | ✓   |    |
|                           |     |    |
|                           |     |    |
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|                           |     |    |

Shane Gravelly  
Secretary

Thomas O. Hynes  
Chairman

Motion: A motion was made by Senator Matt Himsl that Senate Bill  
22 receive a DO NOT PASS as amended recommendation from the  
Committee. Motion carried.

(include enough information on motion--put with yellow copy of committee report.)

PUBLIC HEALTH  
PAGE THREE  
JANUARY 19, 1983

Senator Himsel asked if there are specifics as to what is hazardous and what is not. The codes spell out quite clearly what is hazardous.

It was pointed out that ranchers with their pesticides could perhaps be included in this bill. This matter will be checked into.

Senator Hager closed. He referred the Committee to the Fiscal Report. He stated that the budget hearing is scheduled for Friday, January 21. This bill is at the request of the Department of HES.

Vice chairman Marbut turned the chair back over to Senator Hager.

DISPOSITION OF SENATE BILL 61: Senate Bill 61 is refining the definition of death.

A motion was made by Senator Norman that Senate Bill 61 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

RECONSIDERATION ACTIONS ON SENATE BILL 22: This bill is an act requiring the use of a safety restraint system to transport a child less than 4 years old; establishing standards, exemptions and penalty; providing for admissibility of evidence in civil suits without presumption of negligence and providing and effective date.

A motion was made by Senator Norman that the Committee reconsider its actions on Senate Bill 22. Motion carried. See exhibit 2)

A motion was made by Senator Jacobson that Senate Bill 22 receive a DO PASS as amended recommendation from the Committee.

Senator Hager called upon the secretary to report her findings concerning the Volunteer Program in the state.

Senator Jacobson stated that if this becomes law it would still be necessary for the voluntary programs. The effective date was delayed until January 1, 1984 in order to give the public time to comply with the law.



PUBLIC HEALTH  
PAGE FOUR  
JANUARY 19, 1983

Senator Hims1 stated that he feels that this bill is indeed very noble, however, pickup trucks are a very definite way of life in his area and would be very inconvenient.

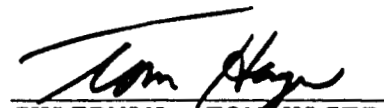
Senator Stephens stated that as a parent and now as a grand-parent, he complied with putting the children in child safety restraint systems, however, he felt the program should be voluntary. He felt that the Committee was trying to extend its wisdom over the general public. He felt that a worthwhile public relations program would get the point across quite well. The Committee should move cautiously in taking away responsibility from parents and respect their rights.

The question was called for and a Roll Call Vote was taken. Motion carried. (See exhibit 3).

A motion was made by Senator Jacobson that the Statement of Intent DO PASS. Motion carried.

ANNOUNCEMENTS: The next meeting of the Committee will be held in Room 410 of the State Capitol Building on Friday, January 21, 1983 to hear Senate Joint Resolution 7.

ADJOURN: With no further business the meeting was adjourned.

  
CHAIRMAN, TOM HAGER

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1-19-

[illegible]

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date JANUARY 19 SENATE Bill No. 22 Time 1:55

| NAME                      | YES | NO |
|---------------------------|-----|----|
| SENATOR TOM HAGER         | ✓   |    |
| SENATOR REED MARBUT       | ✓   |    |
| SENATOR MATT HIMSL        |     | ✓  |
| SENATOR STAN STEPHENS     |     | ✓  |
| SENATOR CHRIS CHRISTIAENS | ✓   |    |
| SENATOR JUDY JACOBSON     | ✓   |    |
| SENATOR BILL NORMAN       | ✓   |    |
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Clarence Gravelly  
Secretary

Tom Hager  
Chairman

Motion: A motion was made by Senator Norman that the Committee  
reconsider its actions on Senate Bill 22. Motion carried.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date JANUARY 19 SENATE Bill No. 22 Time 2:20

| NAME                      | YES | NO |
|---------------------------|-----|----|
| SENATOR TOM HAGER         |     | ✓  |
| SENATOR REED MARBUT       | ✓   |    |
| SENATOR MATT HIMSL        |     | ✓  |
| SENATOR STAN STEPHENS     |     | ✓  |
| SENATOR CHRIS CHRISTIAENS | ✓   |    |
| SENATOR JUDY JACOBSON     | ✓   |    |
| SENATOR BILL NORMAN       | ✓   |    |
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|                           |     |    |
|                           |     |    |

Shane Gravelly  
Secretary

Tom Hager  
Chairman

Motion: A motion was made by Senator Jacobson that Senate Bill  
22 receive a DO PASS recommendation from the Committee. Motion  
carried.

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

January 19

1983

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration Statement of Intent, Senate Bill No. 22

Respectfully report as follows: That Statement of Intent, Senate Bill No. 22  
be adopted.

## STATEMENT OF INTENT RE: SB 22

A statement of legislative intent is required for this bill because the bill authorizes the Division of Motor Vehicles of the Department of Justice, consistent with 61-9-504, to adopt rules prescribing standards for child safety restraint systems to be approved for installation in vehicles owned by residents of Montana. The intention is that the standards adopted incorporate federal standards that specify requirements for child restraint systems and seatbelts used in motor vehicles and prescribe proper procedures for restraining a child under 4 years old with acknowledgment of certain exemptions allowed in [SB 22]. The rules should also provide for informational activity to bring the new rules to the awareness of the public.

DO PASS

4/E

January 19

1983

MR. **PRESIDENT,**We, your committee on **Public Health, Welfare and Safety**having had under consideration **Senate** Bill No. **22**

Respectfully report as follows: That **Senate** Bill No. **22**  
 introduced copy be amended as follows:

1. Page 1, line 21.

Following: "resident"

Insert: "or his spouse"

2. Page 1, line 25.

Following: "resident"

Insert: "or his spouse"

3. Page 1, line 24.

Following: "old"

Insert: "or weighing less than 40 pounds"

4. Page 2, line 7.

Following: "resident"

Insert: "or his spouse"

DO PASS  
 XXXXXX

CONTINUED

Chairman.

4/c-

January 19 1931

Public Health, Welfare and Safety  
Page Two  
Senate Bill 22

5. Page 3, line 3.

Following: Punishable

Strike: "as provided in 61-9-511"

Insert: "by a fine of not less than \$10 or more than  
\$25, a second or subsequent conviction within three  
years is punishable by a fine of not less than \$25  
or more than \$100,"

Statement of Intent Attached

And, as so amended,  
DO PASS

7.



MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE  
March 7, 1983

The meeting of the Human Services Committee held on March 7, 1983, at 12:30 p.m. in Room 224A of the Capitol Building was called to order by Chairman Marjorie Hart. All members were present except Rep. Dozier, who was absent.

SENATE BILL 22

SEN. JACOBSON, sponsor. This bill requires safety restraints for children under four years of age. Sen. JACOBSON briefly discussed the bill. "Children over 40 pounds" was amended into the bill because safety restraint systems on the market cannot hold the child over 40 pounds. Twenty-one states now have child safety restraint laws. Academy of Pediatrics recognized that states need to have a two-fold program-- education of parents as to safety restraint systems and their proper use as well as enforcement. We feel the bill is necessary to reduce death and injury to small children (EXHIBIT 1).

PROPOSERS:

JEFFREY H. STRICKLER, M. D., Alternate Chapter Chairman American Academy of Pediatrics, Montana Chapter, strictly endorsed this bill. Motor vehicle injuries is the leading killer of children age 1 to 4, ranking ahead of all the cancer, infectious diseases and congenital anomalies that we treat. It is estimated by the National Traffic Safety Administration that 2 out of every 100 infants born today will die in a traffic accident and 2/3 of all infants born today will be injured in such an accident in their lifetime. Children are also injured by being squashed against the front of the car by the inertial impact of the adult's body if the child is sitting on a lap. At least 20 percent of children are injured as a result of situations that do not involve a crash. This would include such things as falling out of windows and doors and being thrown about by sudden stops or swerves. The cure for this epidemic is mandated, effective child safety restraints. He said SENATE BILL 22 goes a long way toward saving our children and he urged the Committee recommend its passage (EXHIBIT 2).

JERALD EICHNER, M.D., American Academy of Pediatrics, Great Falls, Montana, said in the 1970's there were 16,870 children, under 4-years of age, killed in motor vehicle accidents in the United States. In addition to those, there were 150,000 under fourteen years of age who sustained disabling injuries.



Each motor vehicle death costs society \$135,000. Incapacitating injuries cost \$11,900 and nonincapacitating visible injuries, \$3,500. This adds up to motor vehicle occupant death for children under 5-years of age costing one hundred million dollars per year in the United States. Other data show that proportionately more infants are killed in accidents than older children. Studies show that majority of fatal accidents occur in the daytime, with the child's mother driving less than 55 miles an hour. Children who are properly restrained show a decrease of accidents because of less distraction in the car. He supported the passage of SENATE BILL 22.

DR. SIDNEY C. PRATT, Health Services Division, State Department of Health and Environmental Sciences, said that preventative measures that affect child health are central to the Maternal and Child Health Programs and have been one of the foci of the State Department of Health and Environmental Sciences for many years. This proposal extends this goal and, therefore, he urged favorable consideration of SENATE BILL 22 (EXHIBIT 3).

ALBERT GOKE, Highway Safety Division, Department of Justice, said they did a survey in 1979 and found the average of child restraint usage was 5.1%. They worked with the professional health agencies of the state and womens' groups that existed, and through a process of matching local donations, they initiated a process designating fifty car seats if program was started. We have twenty five of those programs actually working in our state today. Yearly, since that time, they conducted surveys in the same locations where they gained the original data. In just one year, they increased usage to 6.5%. Last fall, they conducted the survey again and found they now have 46% using a restraining system. There are four types of child restraint systems: (1) the infant seat which protects the child up to 9 months; (2) the toddler's seat--the toddler has outgrown the infant seat; (3) convertible child seats which would work for a child up to 40 pounds; and (4) the booster seat which is for a child two years and above. Adequately approved seats are available in the marketplace today. He urged support of this legislation (EXHIBIT 4).

COL. R. W. LANDEN, Highway Patrol, strongly supported SENATE BILL 22.

LARRY TOBIASON, President of the Montana Automobile Association, was in favor of this legislation.

Page 3

Minutes of the Meeting of the Human Services Committee  
March 7, 1983

JERRY LOENDORF, representing the Montana Medical Association, wanted to go on record as supporting this bill. The statistics cited show the positive affect of this legislation (EXHIBIT 3).

JUDY OLSON, Montana Nursing Association, supported SENATE BILL 22, in order to protect the health of the children.

CELINDA LAKE, Women's Lobbyist Fund, stated that while parents have a responsibility to protect their children, the state also has a responsibility to see that children who are too young to ensure their own safety by using seatbelts are protected, if parents do not follow through on their responsibility. The Women's Lobbyist Fund strongly urged the Committee to pass SENATE BILL 22 (EXHIBIT 5).

DAVID LACKMAN, Lobbyist for the Montana Public Health Association, endorsed this bill also.

LEONA TOLSTEDT, Co-chairman, Buckle Up Your Babe and first vice-president of the Montana Medical Association Auxiliary, shared some information about the rental program. With the infant restraint loan program, the parents are able to rent an infant restraint for the first 9 months or until they weigh 20 pounds for \$7. At the end of that period, toddler restraint workshops are conducted to familiarize the parents with different types of restraints. Through the participating merchants, they have been able to give the parents a discount certificate toward the purchase of a restraint. A proper restraint can be purchased for approximately \$40 to \$70. When you consider that a child should be able to use the seat until he or she is nearly five years old, you can see that they are talking about approximately \$1 per month to keep a child safely restrained. She urged the passage of SENATE BILL 22 for the protection of our greatest resource, our children (EXHIBIT 6).

DEBRA N. KEHR, private citizen, said the vast majority of injuries are to the head and neck and any injury could be permanently disfiguring and disabling. She supported this legislation (EXHIBIT 7).

LYNN JAMES, Clancy, Montana, related an incident of her car rolling, landing upright. She attributed her child being alive to being in a restraint system.

SHERRIE SMITH, a traveling professional working with parents and children, said most of us are not prepared for our parenting role. In working with parents, they are busy learning how to be parents and can't think about everything at once. Correct seats are something they don't think about. This legislation would cause people to realize there is something that needs to be done. She urged support of SENATE BILL 22.

OPPONENTS:

PAUL SCHMITT, private citizen, said that physical limitations of some vehicles not covered in this law make it impossible to comply (EXHIBIT 8). He also read a statement from his wife, KATHY R. SCHMITT, who asked that the Committee not pass SENATE BILL 22. He read "Anybody who knows anything about children is aware that restraint for any length of time is difficult for a small child. . . Considering all the many hours we spend on the road, and the fact that many of the miles are traveled in the best of conditions, I feel there are times when what is best for my children does not include restraint." (EXHIBIT 9)

SEN. JACOBSON closed reading an article from the recent paper relating an incident where four people were killed and five others injured in an accident that occurred on Interstate 15. The paper stated the child was not injured because he was in a sturdy car seat strapped in with seat belts. And, that undoubtedly saved his life. She stated they didn't want to usurp parents' rights, but in these particular incidences, I think, as with child abuse and immunization, it is helpful. She addressed his concern of pick-up trucks and the rule-of-thumb being used in other states is one restraint per pick-up truck. As far as a mother feeding a child or changing a diaper, she felt an officer would take that into consideration if the car was involved in an accident during that time. This law is reaching out to those parents who do not respond until we pass a law. She stated Mr. Drake wanted to submit an amendment that would strike Section 4 except for "Failure to comply with [section 2] does not alone constitute negligence."

QUESTIONS:

REP. FABREGA: Don't lines 21-24, page 2, apply to pickups?

SEN. JACOBSON: We ran into this snag in the Senate. We didn't have a chance to look into it. It would seem that the average pickup is a three seater, unless it is bucket seats. If you want to amend the bill to include one car seat for a pickup truck, I would be agreeable to that.

REP. FABREGA: On page 2, lines 10 and 11, what do you mean, "No resident OR HIS SPOUSE is required to have more than three child safety restraint systems in a vehicle."

SEN. JACOBSON: Some cars are only so big. Most automobiles with the new compact size could probably hold two in the back and one in the front or possibly three in the back.

Additional information is attached (EXHIBIT 10).

CHAIRMAN HART closed the hearing on SENATE BILL 22.

### SENATE BILL 12

SEN. JACOBSON, sponsor. This bill is an act allowing physicians to report to the Division of Motor Vehicles patients with conditions that impair their ability to safely operate a motor vehicle. She stated we have allowed physicians to report child abuse and patients with seizure. This would allow them more flexibility. This bill is voluntary and no action could be taken against them if they did not make such a report. An impaired driver is endangering himself and other people on the road. This bill could address this problem. She urged passage of this bill.

### PROPOSERS:

DUANE B. TOOLEY, Department of Justice, stated the language in SENATE BILL 22 addresses a problem that has been around for a good number of years. There is no other answer to it other than to make an exception to the privacy between the doctor and the patient to allow the physician on a voluntary basis to let them know when there is a problem. He urged support of this bill.

JERRY LOENDORF, representing the Montana Medical Association, said they would also support the bill. With regard to section 1 which makes reporting discretionary, a person could have many injuries that could impair him from driving temporarily. The physician doesn't report it because he knows this person utilizes good judgment and will only drive when he is capable. That section as it is written is sensible and reasonable. There are those situations when a family member will complain to a doctor that an individual needs to quit driving. Fear is expressed that this person may injure themselves or somebody else. In the interest of safety, confidentiality between physician and patient should be overridden and the doctor should be allowed to make the report.

REP. BRAND: If this bill passes to expand programs for Twin Bridges, would this take some of the money from medicaid and medicare so they would not get the amount of money they would have gotten if this program was not in existence.

JUDY CARLSON: People may qualify no matter where they live.

REP. BRAND: a place like Scobey could lose some funds as a result of this bill.

JUDY CARLSON: Funds go with the individual.

REP. BRAND: Are we short of those kinds of facilities now?

JUDY CARLSON: The state health plan calls for 500 additional personal health care slots needed.

REP. BRAND: Where would these people come from?

REP. MENAHAN: My town, your town.

REP. HANSEN: Please differentiate between "personal care projects, personal care homes and personal care services."

JUDY CARLSON: A personal care project would be a facility that offers personal care services. You could get the personal care services in your own home.

REP. HANSEN: The bill talks about a waiver for this project, but I understood that was for the services.

JUDY CARLSON: The waiver cannot pay for room and board. It pays only for the services.

CHAIRMAN HART called for a vote on the motion that SENATE BILL 128 BE CONCURRED IN.

The motion PASSED UNANIMOUSLY.

#### SENATE BILL 22

SEN. JACOBSON, sponsor. This bill requires safety restraints for children under four years of age.

REP. BROWN: Moved SENATE BILL 22 BE CONCURRED IN.

REP. SWIFT: Moved an amendment be accepted deleting Section 4.

SEN. JACOBSON: You want to, at least, retain the last sentence which says that "Failure to comply does not constitute negligence."

REP. FABREGA: The bill is better off with the section than without it. Safety belts are there to use but if you are not using them, why not?

REP. CONNELLY: What usually happens, there is a percentage of negligence.

Page 11

Minutes of the Meeting of the Human Services Committee  
March 7, 1983

REP. HANSEN: There are two areas that bother me. Suppose you land in the river or the car caught fire. Those same restraints might be the very item that would keep you from getting that child out.

REP. KEYSER: The percentage of people that are going to go into the river or catch fire is so small compared to the rest of the automobiles

The motion was voted on the amendment to delete Section 4.

The motion FAILED.

The motion that SENATE BILL 22 BE CONCURRED IN PASSED with REPS. SWIFT and SOLBERG voting no.

The meeting adjourned at 2:30 p.m.

Marjorie Hart  
CHAIRMAN MARJORIE HART

Gene Russell  
Secretary

# Infant car seat laws

(c) 1983, Los Angeles Times

It should be no surprise that 21 states have now passed laws requiring the use of special car safety seats for small children, more of whom die as vehicle passengers every year than as victims of burns or drowning.

What can happen to a child who rides unbelted is often expressed in ghastly formulas: a baby held on a lap, for instance, will in a 30 m.p.h. crash be flung out of the parent's protective arms into the dashboard with a force of 300 pounds and then crushed by a force of 3,000 pounds if the 100-pound parent is also unbelted. It is also estimated that child safety seats can cut such mayhem by 90 percent, even 95 percent.

The surprise is that there has to be a law at all, and that there is any ambivalence about it. States, however, pass such laws, then delay enforcing them for several months, even several years. Auto manufacturers recommend the seats in their car manuals but refuse to help install them in the cars. And consumers, ungrateful for a good suggestion, says one enforcement official, tend to greet warnings with "I don't need a law to tell me how to take care of my own kid."

Who should take responsibility for consumer safety? Consumers? Manufacturers? Government? Further, how could such responsibility be legislated?

In 1981, 1,300 children under the age of 5 were killed and 40,000 injured in vehicle accidents; some were on bikes, some were on foot, but more than half were passengers. The largest single cause of death between 1 and 5 years old. Very few of those recorded deaths, usually only those in high-speed crashes, involved car safety seats properly installed and used.

Indeed, says Bill Hall, research associate at the University of North Carolina Highway Safety Research Center, in 100 such fatalities to children under 6 in his state over five years, only one was a child in a secured safety seat, and that car was broad-sided by a large truck where the child sat.

There are, understandably, few formal statistics on uninjured children, although Robert Sanders, a Tennessee pediatrician instrumental in the passage of that state's 1978 safety seat law and director of the Rutherford County Health Department, says that of 62 children in 1981 car crashes in his own city of Murfreesboro, the 29 in safety seats suffered no injuries. There are also plen-

ty of individual stories, many collected by seat manufacturers such as Stroebe of California, which has more than 40 percent of the market and gets bags of grateful letters about cars totaled and adult occupants badly hurt, while the secured child came through with minor bruises.

Child seats seem even more effective than current adult restraint systems, and if the new laws are at all effective, the seats will be much more widely used; barely one in 10 American adults buckles up.

More than two dozen countries in the civilized world didn't hesitate to make that act mandatory, but U.S. law addresses only auto manufacturers, and none too bravely. Since 1968, federal law has required all cars to have seat belts with these results: adult usage has run generally downhill from 1971's 17 percent to just over 11 percent now.

With child safety, the federal government has simply set a manufacturer's standard for the minimum amount of restraint a child seat must provide, and is still debating whether to require auto makers to provide a place in each car to anchor the kind of tether that makes such seats considerably more secure. Otherwise, child safety has been left to the states and the companies who market the seats, and perhaps as a result, child usage statistics are already better. A 1982 survey of 19 cities estimates that 40.5 percent of infants under 1 year rode in some kind of restraint; and 18.8 percent of children 1 through 4.

The passing of laws may also have some indirect effects encouraging seat use. The auto industry, for example has had its own ambivalence toward safety seats, publicly urging their use, privately refusing to help install them. Copying General Motors, which actually designed and marketed the classic "Infant Love Seat" in 1969 and a toddler equivalent in 1973, some auto manufacturers sell child seats with their cars. Some cars even come now with pre-drilled anchor spots for the popular seat tethers — all 1983 Toyotas, for instance, and all GM sedans and coupes.

A consumer may nevertheless find himself with a new car, a car manual urging the immediate installation of a child seat, and a dealer who refuses to touch it.

The new laws may also affect future adult usage of seat belts, given that the laws' sponsors are, among other things, "trying to raise a generation of belt-wearers," says Bill Hall.

EX 2  
5822

# Helena Medical Clinic, P.S.C.

1030 8TH AVE.  
HELENA, MONTANA 59601  
TELEPHONE 442-8523

March 3, 1983

DAN SMELKO  
Business Manager

INTERNAL MEDICINE:  
J.B. SPAULDING, M.D.  
D.R. HIESTERMAN, M.D.

OBSTETRICS AND  
GYNECOLOGY:  
J.E. NICKEL, M.D.  
R.M. BROWNING, M.D.  
D.B. JOHNSON, M.D.

PEDIATRICS:  
E.P. GUNDERSEN, M.D.  
B.C. RICHARDS, M.D.  
J.H. STRICKLER, M.D.

SURGERY:  
W.J. HOOPES, M.D.  
K.J. WRIGHT, M.D.  
J.W. HARLAN, M.D.

## MEMO

TO: House Human Services Committee

FROM: Jeffrey H. Strickler, M.D., Alternate Chapter Chairman  
American Academy of Pediatrics, Montana Chapter.

RE: Senate Bill 22 - Child Safety Restraint Legislation.

Madam Chairman and Members of the Committee:

I am here to bring you the very strong endorsement of the Montana Chapter of the American Academy of Pediatrics for Senate Bill 22.

Pediatricians consider themselves advocates of children and as such, we try to look out for their welfare. We provide well child examinations to diagnose conditions before they become serious. We immunize them to prevent illnesses from killing or crippling them and we now come before you to help prevent the leading cause of death in toddlers, automobile accidents.

Motor vehicle injuries are indeed an epidemic. This is the leading killer of children age 1 to 4, ranking ahead of all the cancer, infectious diseases and congenital anomalies that we treat. The motor vehicle mortality is actually higher for infants than it is for the older children and it is estimated by the National Traffic Safety Administration that 2 out of every 100 infants born today will die in a traffic accident and 2/3 of all infants born today will be injured in such an accident in their lifetime. The typical fatality occurs from 6 a.m. to 6 p.m. on weekdays with a young woman driving the car, most typically at speeds less than 55 miles per hour. Because a child has a disproportionately large head, compared to an adult, the child is thrown missile-like into the dashboard so that head and neck injuries predominate. Children are also injured by being squashed against the front of the car by the inertial impact of the adult's body if the child is sitting on a lap. At least 20 percent of children are injured as a result of situations that do not involve a crash. This would include such things as falling out of windows and doors and being thrown about by sudden stops or swerves.



House Human Services Committee  
March 3, 1983  
Page 2

RE: Senate Bill 22 - Child Safety Restraint Legislation.

There is a cure for this epidemic. This cure is mandated, effective child safety restraints. The experience in Washington state shows that children unrestrained who are involved in auto accidents suffered a mortality of 1 per 227 accidents. Of those children who were restrained, over the 10 year period of 1970 to 1979, only 2 were killed and this represented a mortality ratio of 1 to every 3,150 accidents. This is a 14 fold decrease in mortality; and injuries would similarly be reduced. The League General Insurance Company gave away car seats to 6,000 policy holders in an innovative program. They showed their injuries decreasing 46 percent and fatal and severe injuries were reduced 2/3. Claims costs went down 75 percent for children.

It is also good evidence to note that the law works. Tennessee now has 4 years experience with a seat belt law and has shown that seat belt usage has increased from a negligible level to 30 percent. With only 30 percent usage, the morbidity and mortality in childhood auto accidents has been halved. When I spoke before the Senate, I noted that more than 20 states had enacted similar legislation. I am pleased to tell you that since then 4 more states have passed child restraint laws.

There has been some concern about the cost to the parent of child safety restraints. You will hear about loaner programs that have sprung up around the state to assist young parents. These are commendable. When one considers that the cost is much less than the required immunizations, and when one considers the tremendous financial and emotional costs of an injury or death, the price of a car seat must be considered negligible.

Ladies and gentlemen, the United States has nearly eradicated measles by educating parents about the danger of measles and its prevention by immunization; by making an efficacious vaccine universally available; and by requiring by law that all children be immunized. With an intervention triad of education, availability and enforced legislation, we may also be able to eradicate this highway epidemic. Senate Bill 22 goes a long way toward saving our children and I urge you recommend its passage.

Madam Chairman and Members of the Committee:

I am Dr. Sidney C. Pratt of the Health Services Division, State Department of Health and Environmental Sciences, speaking on behalf of the Department in support of Senate Bill 22.

This bill seeks to mandate the use of restraint devices for children under 4 years of age. This is an appropriate preventive measure to minimize injuries to children involved in automobile accidents. The statistical evidence in support of this is overwhelming. In Tennessee, for example, in the first year following passage of such a bill the death rate fell from 17 to 10 and then to 5 in the second year.

The American Academy of Pediatrics has instituted a major educational program supporting such automobile restraints as has, in Montana, the Highway Traffic Safety Division of the Department of Justice and the Montana Chapter of the American Academy of Pediatrics. These restraints must be of the types approved by these organizations.

Preventive measures that affect child health are central to the Maternal and Child Health Programs and have been one of the foci of the State Department of Health and Environmental Sciences for many years. This proposal extends this goal and, therefore, we urge favorable consideration of Senate Bill 22.

Thank you.

## WITNESS STATEMENT

e Julius T. Loo-derf Committee On \_\_\_\_\_  
ress Helena, Mt. Date \_\_\_\_\_  
representing Mr. Medical assn Support ✓ (SB12, SB22 & SB180)  
l No. SB 12, SB 72, SB 180 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

ER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ments:

emize the main argument or points of your testimony. This will  
list the committee secretary with her minutes.

## MONTANA CHILD RESTRAINT PROGRAMS

In 1980 the Highway Traffic Safety Division initiated Montana's first comprehensive child restraint usage program. Although child restraints had been available for some time, parents were simply not using them in our state to protect their children in motor vehicles. For example, a survey taken in late 1979 indicated that only about 2.5% of the infants under 1 year of age were being protected in a vehicle by a good infant seat. The toddler group, from 1 through 3 years of age, demonstrated less than 1% proper usage as did the use of safety belts from 4 to 14 years of age.

During 1980 a broad based child restraint program was initiated through a network of volunteer groups with the financial, planning and administration support provided by the Highway Traffic Safety Division. The program included public education via the media and current outlets to information for new parents such as pre-natal classes in our hospitals. A brochure was developed with over 50,000 copies distributed the first year by doctors, dentists, nurses, hospitals and volunteer women's groups such as the Montana Association of Women Highway Safety Leaders. The latter association also provided statewide educational viewings of several current films on the subject.

Locally, volunteer administered child restraint rental programs were assisted in starting their programs and the Division provided the incentive of one free rental seat for each one the community bought for their program (up to a maximum of 50 per community).

This basic program, with minor adjustments, has continued for three years and the results have been outstanding. Within a year, usage rose to 6.5% proper usage for infants under 1 year of age. Near the end of 1982, our latest survey shows the following results:

|                              | <u>1979 % Usage</u> | <u>1982 % Usage</u> | <u>Up</u> |
|------------------------------|---------------------|---------------------|-----------|
| Infants up to 1 year         | 2.5                 | 45                  | 1700%     |
| 1 year through 3 years       | under 1.0           | 39                  | 3800%     |
| 4 to 14 years<br>Safety Belt | under 1.0           | 18                  | 1800%     |

Albert E. Goke  
Administrator  
Montana Highway Traffic  
Safety Division  
Department of Justice

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



TESTIMONY BY CELINDA C. LAKE, WOMEN'S LOBBYIST FUND IN SUPPORT OF SENATE BILL 22  
ON MARCH 7, 1983

The Women's Lobbyist Fund represents a broad coalition of women's groups across Montana. We support Senate Bill 22 calling for child restraints for children four and under. Education programs in Montana have already demonstrated the success in reducing infant mortality and injury when child restraints are used. Other states' programs such as Michigan's and Tennessee's have shown that mandatory programs can significantly reduce death and injury rate among children.

While parents have a responsibility to protect their children, the state also has a responsibility to see that children who are too young to ensure their own safety by using seatbelts are protected, if parents do not follow through on their responsibility. In Montana with programs like the mandatory immunization program for young school children, we have already set the precedent of state involvement in ensuring that young children are protected when they can not reasonably be expected to take responsibility for their own protection and when their parents may not follow through on their responsibility to protect their children.

For these reasons the Women's Lobbyist Fund strongly urges the committee to pass Senate Bill 22.

Members of the Public Health Committee, Senators and Representatives:

I won't reiterate all the statistics and the need for SB-

22. The facts speak very well for the need of safety restraints. What I want to speak to is how the infant restraint loan programs can help to mitigate the cost of restraints for the parents. I will speak rather specifically about the program I am familiar with operating at St Peters Community Hospital in Helena. There are similar programs operating in 16 cities all over our state. Each is operated with slight variations. We have an infant restraint loan program in which the parents are able to rent an infant restraint for the first 9 months or until they weigh 20 pounds for \$7.00. At the end of that period we conduct toddler restraint workshops to familiarize the parents with different types of restraints. In this way they can make an educated purchase of a restraint that will meet their needs. Through our participating merchants we have been able to give the parents a discount certificate toward the purchase of a restraint. Even with this inticement our educational program for toddler restraints has met with a poor response. Sad as that commentary may be I feel that parents have to be further encouraged to see that their infants and toddlers are restrained while in an automobile. This law will help to do that.

A proper restraint for a toddler can be purchased for approximately \$40.00 to \$70.00. I have seen nearly all the restraints advertised on sale quite regularly at between \$45.00 and \$50.00. When you consider that a child should be able to use the seat until he or she is nearly five years old, you

can see that we are talking about approximatedly \$1.00 per month to keep a child safely restrained.

In the beginning, when this law is passed, I'm sure that we will experience a shortage of used seats that meet the new standards of testing since 1980. We are in that state now because of the awareness created by the loan-rental programs and the attention given them by our advertising media. But as more used seats are on the market, I feel that the cost should be in the reach of any parent who cares deeply about their children.

I urge the passage of Senate Bill 22 for the protection of our greatest resource, our children.

Leona Tolstedt    Co-chairman Buckle Up Your Babe  
First-Vicepresident    Montana Medical Association Auxiliary

Ex 7  
SB 22

G.B. Givler, D.D.S.

Oral and Maxillofacial Surgery

Phone 406/443-3334

65 Medical Park Drive

Helena, Montana 59601

REGARDING SENATE BILL 22:

TO ALL THOSE WHO SIT TODAY IN CONSIDERATION OF SENATE BILL 22,

I was asked to be present today to provide input regarding the pros and cons of the aforementioned Bill. Due to scheduling problems, I am unable to attend and therefore, will with this letter detail my opinion from a professional standpoint regarding this Bill.

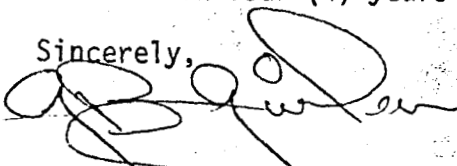
As a practicing Oral and Maxillofacial surgeon in Helena, Montana, I can provide you with the following facts:

- 1) Motor accidents, particularly at low speed, generally prove to be more injurious to unrestrained passengers than to the driver.
- 2) One of the most common injuries suffered by an unrestrained passenger in a motor vehicle accident involves injuries to the facial bones and skull due to striking the dashboard, windshield, or seatback.
- 3) Due to the obvious difference in both physical strength and speed of reflexes between a small child and an adult, the small child is much less capable of physically protecting his or herself from injury upon sudden impact.
- 4) In regard to the young patients I have treated for facial injury secondary to motor vehicle accidents, to my knowledge, all were unrestrained.

It is my feeling that the most important factors to be considered regarding this Bill are the severity and permanent disability which can be suffered by unrestrained children in motor vehicle accidents. Injuries to the eyes and cranium speak for themselves, and as they do not involve my specialty I will not address them. There is though, an extremely important factor to be considered regarding facial bone fractures in young children. Though facial bone fractures in adults are, in most cases, able to be treated in such a fashion so that no permanent disfigurement or disability results, young children, on the other hand, present a completely unique problem. During the developing years the bones of the lower and middle third of the face are in an active state of growth. A fracture to any of these bones can result in severely altered or even complete cessation of the normal growth patterns. This type of growth disturbance can affect the facial bones, the temporomandibular joint (jaw joint), the alveolar bone which supports the teeth, and very commonly can severely affect the developing permanent teeth, which are growing within the alveolar bone at that age. The end result in this type of case is that as the patient grows older, the affected facial and dental structures may not develop normally. Treatment for this may involve extensive orthodontics, surgery, or both, and in some cases even a combination of both can never restore normal appearance and function.

For the above reasons, I stand in support of Senate Bill 22 regarding the restraint of children four (4) years and younger in motor vehicles.

Sincerely,



G. B. GIVLER, D.D.S.

GBG/sc



## WITNESS STATEMENT

Name Dan Schmitt Committee On Human Services  
Address 303 N. Oregon Date March 7, 1983  
Representing \_\_\_\_\_ Support \_\_\_\_\_  
Bill No. SB 22 Oppose ☒  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

1. physical limitations of some vehicles not covered in this law make it impossible to comply
2. distance travel, long periods of time restrained in a "car seat" is very difficult to accomplish
3. loophole for insurance co. to avoid covering accident victim
4. .

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Ex  
SB:

March 7, 1983

House of Human Services  
Hearing Committee

Dear Committee Members:

Please do not pass Senate Bill No. 22 which would require the use of a safety restraint system to transport a child. At low risk times I want to feel free to give my child a break. Anybody who knows anything about children is aware that restraint for any length of time is difficult for a small child. Long distance travel is part of life in these United States and it is unrealistic to expect a child to remain basically stationary for extended periods. Travel time also often coincides with feeding, changing and nap times when it would again be unrealistic to require a parent to leave the child in a restraining system.

As a parent I always face limits as to how thoroughly I can protect my children. Their safety and well being are uppermost in my mind but I need to provide them room in which to learn and grow. Therefore, I cannot protect them from every possible hazard. Please understand that I am thankful to live in the day and age when restraint systems offer my children more safety in a vehicle, but I cannot be thankful for a law that would leave no room for my judgement as to what is best for my children. Considering all the many hours we spend on the road, and the fact that many of the miles are traveled in the best of conditions, I feel there are times when what is best for my children does not include restraint.

Thank you for your time and consideration.

Sincerely,

*Kathy R. Schmitt*

Kathy R. Schmitt  
303 N. Oregon  
Helena, Montana

## VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL                      SENATE BILL 22

DATE 3-7-83

SPONSOR        SENATOR JACOBSON

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# STANDING COMMITTEE REPORT

March 7, 1983

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration SENATE Bill No. 22

third reading copy ( blue )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING USE OF A SAFETY RESTRAINT SYSTEM TO TRANSPORT A CHILD LESS THAN 8 YEARS OLD; ESTABLISHING STANDARDS, EXEMPTIONS, AND PENALTY; PROVIDING FOR ADMISSIBILITY OF EVIDENCE IN CIVIL SUITS WITHOUT PRESUMPTION OF NEGLIGENCE; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 22

BE CONCURRED IN

~~XXXX~~  
DO PASS

STATEMENT OF INTENT ATTACHED

MARJORIE HART

Chairman.

MR. SPEAKER

WE, YOUR COMMITTEE ON HUMAN SERVICES, HAVING HAD UNDER CONSIDERATION SENATE BILL 22, THIRD READING COPY (BLUE), ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT  
SENATE BILL NO. 22

A statement of legislative intent is required for this bill because the bill authorizes the Division of Motor Vehicles of the Department of Justice, consistent with 61-9-504, to adopt rules prescribing standards for child safety restraint systems to be approved for installation in vehicles owned by residents of Montana. The intention is that the standards adopted incorporate federal standards that specify requirements for child restraint systems and seatbelts used in motor vehicles and prescribe proper procedures for restraining a child under 4 years old with acknowledgment of certain exemptions allowed in [SB 22]. The rules should also provide for informational activity to bring the new rules to the awareness of the public.